

to believe that the person being communicated with is an agent of a foreign power or a terrorist.

Mr. Bush decided after 9/11 that he was no longer going to obey that law. He authorized the National Security Agency to intercept international telephone calls and e-mail messages of Americans and other residents of this country without a court order. He told the public nothing and Congress next to nothing about what he was doing, until *The Times* disclosed the spying in December 2005.

Ever since, the White House has tried to pressure Congress into legalizing Mr. Bush's rogue operation. Most recently, it seized on a secret court ruling that spotlighted a technical way in which the 1978 law has not kept pace with the Internet era.

The government may freely monitor communications when both parties are outside the United States, but must get a warrant aimed at a specific person for communications that originate or end in his country. The *Los Angeles Times* reported yesterday that the court that issues such warrants recently ruled that the law also requires that the government seek such an individualized warrant for purely foreign communications that, nevertheless, move through American data networks.

Instead of asking Congress to address this anachronism, as it should, the White House sought to use it to destroy the 1978 spying law. It proposed giving the attorney general carte blanche to order eavesdropping on any international telephone calls or e-mail messages if he decided on his own that there was a "reasonable belief" that the target of the surveillance was outside the United States. The attorney general's decision would not be subject to court approval or any supervision.

The White House, of course, insisted that Congress must do this right away, before the August recess that begins on Monday—the same false urgency it used to manipulate Congress into passing the Patriot Act without reading it and approving the appalling Military Commissions Act of 2006.

Senator Jay Rockefeller, the chairman of the Senate Intelligence Committee, offered a sensible alternative law, as did his fellow Democrat, Senator Russ Feingold. In either case, the attorney general would be able to get a broad warrant to intercept foreign communications routed through American networks for a limited period. Then, he would have to justify the spying in court. This fix would have an expiration date so Congress could then dispassionately consider what permanent changes might be needed to FISA.

Congress was debating this issue yesterday, and the final outcome was unclear. But there are very clear lines that must not be crossed.

First, all electronic surveillance of communication that originates or ends in the United States must be subject to approval and review by the FISA court under the 1978 law. (That court, by the way, has rejected only one warrant in the last two years.)

Second, any measure Congress approves now must have a firm expiration date. Closed-door meetings under the pressure of a looming vacation are no place for such serious business.

The administration and its Republican supporters in Congress argue that American intelligence is blinded by FISA and have seized on neatly timed warnings of heightened terrorist activity to scare everyone. It is vital for Americans, especially law-makers, to resist that argument. It is pure propaganda.

This is not, and has never been, a debate over whether the United States should conduct effective surveillance of terrorists and their supporters. It is over whether we are a

nation ruled by law, or the whims of men in power. Mr. Bush faced that choice and made the wrong one. Congress must not follow him off the cliff.

I reserve the balance of my time.

Mr. SMITH of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this bill should be opposed by anyone who wants to protect America from terrorists.

It is a pitiful sight to see the majority denying the Director of National Intelligence the tools he needs to protect our country from terrorist attacks. The director warned Congress that "the House proposal would not allow me to carry out my responsibility to provide warning and to protect the Nation, especially in our heightened threat environment."

According to the Director, the current Foreign Intelligence Surveillance Act of 1978, or FISA, does not allow the intelligence community to be effective. Specifically, the Director is unable to collect crucial information involving foreign terrorists.

Neither the Constitution nor Federal law restricts the ability of law enforcement or intelligence agents to monitor overseas communications; however, the bill would require the Director to obtain a court order to monitor calls from a foreign country to the United States. For instance, a foreign terrorist in Iraq who calls another terrorist in New York City would require or could require a court order. That jeopardizes American lives.

We are a Nation at war with foreign terrorists who continue to plan deadly attacks against America. We have an urgent need to modernize the Foreign Intelligence Surveillance Act.

Telecommunications technology has evolved dramatically over the last 30 years. Terrorist tactics are constantly changing in response to our efforts to disrupt their plots, and essential tools that we use must be modernized to keep up with this changing environment.

The safety of Americans depends on action by Congress. Al Qaeda recently released a video promising a big surprise in coming weeks. This threat, along with other activity, has heightened the concern among our intelligence agencies. Unfortunately, this bill fails to provide the fix that the Director has repeatedly told us is urgent.

First, the bill sunsets in 120 days. In 4 months, we will be right back where we started, dealing with the issue once again.

Second, the bill imposes bureaucratic requirements on the FISA process that will hamper efforts to protect America.

Third, the bill will interject the FISA court into a role that it has never had before. The bill will make it harder for the Director to do his job.

The majority could have solved the problem months ago. In April, the Director submitted to Congress a comprehensive proposal to modernize FISA. That proposal should already

have been enacted. The majority failed to do so.

I hope, Madam Speaker, that there are no attacks before we revisit the issue and do what we should have done today. I urge my colleagues to oppose this legislation.

I reserve the balance of my time.

Mr. REYES. Madam Speaker, we are in times of peril for a great country. All of us I think agree on that.

As I listened to the previous debates, the one providing assistance to Minnesota and also the one discussing the resolution prior to us coming on the floor, I was reflecting on the many men and women around the world that right now are putting their lives on the line to keep this country safe. They don't do it for glory; they don't do it for fame. They do it with an inherent trust in us that we will do the right thing to provide them the proper tools to do their jobs and keep us safe. That is what this bill does.

Mike McConnell, the Director of the National Intelligence Service, came to us and asked us for three things initially.

We gave him those three things. He told us we were at a time of heightened threats. We recognize that; so we worked in a bipartisan manner with the DNI to craft a bill, only to be told that it wasn't everything that he needed, yesterday.

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We can't afford to leave and go on recess without passing this critical piece of legislation. This piece of legislation that sunsets in 120 days gives him the tools that he needs to keep us safe and to keep the trust with those men and women around the world that expect us to do the right thing.

With that, I reserve the balance of my time.

Mr. SMITH of Texas. Madam Speaker, I yield 2 minutes to the distinguished minority whip, the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. I thank the gentleman for yielding.

This is clearly a critical debate. The spirit of the chairmen, Chairman REYES and Chairman CONYERS both, are exactly right in our need to solve this. My concern is that we're not in a place where we're about to solve it yet. The very worst thing I actually think we could do is pass a bill, have the Senate pass a separate bill, all go home and say we tried to solve this problem and didn't get it solved.

I'm most concerned, in this effort to get two-thirds of the Members to agree, that the Director of National Intelligence thinks this bill isn't the right bill and apparently our friends on the other side of the building are not in agreement yet that this is the right bill. I just say, whatever we do, let's not cast a vote here only so we can say we did something. Let's figure out how to do something that exactly makes a difference. Let's figure out how to do something that gets signed into law.